

HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P. No.176 of 2003

Dated this the 17th day of December 2007

Between:

Puranlal, s/o. L. Deshrai, aged: 75 years,
R/o.Khaleelwadi, Nizamabad. ... Petitioner

AND

A.P. Transmission Corporation of Power Ltd.,
Rep.by its Chairperson, Vidyutsoudha,
Somajiguda, Hyderabad, and 2 others Respondents

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W.P. No.176 of 2003

ORDER:

This Writ Petition has been filed by the petitioner seeking to declare that the action of the respondent in insisting the petitioner for clearing the arrears of the third respondent for continuing electricity supply to the petitioner's existing connections or for considering the petitioner's application dated 12.12.2002 for grant of new connections is illegal, arbitrary and unconstitutional and consequently direct the official respondents not to compel the petitioner in any manner to clear the arrears of the third respondent.

2) The petitioner is a landlord. The third respondent took the premises of the petitioner on lease and he made an application for service connection with the first respondent and the first respondent with the consent of the petitioner granted service connection separately in favour of the third respondent. After some time the third respondent vacated the premises and failed to pay the arrears of the

consumption charges. The first respondent resorted to disconnect the other service connections of the petitioner and directed the petitioner to pay the arrears of four bills being consumed for the consumption charges by the third respondent.

3) The learned counsel for the petitioner submitted that there is no provision to make the owner responsible for payment of the consumption charges when the tenant failed to pay the consumption charges by taking a separate meter in his name.

4) The learned counsel for the petitioner relied on two judgments in support of his contention that he is not liable to pay the electricity charges and the first respondent is not entitled for disconnecting the other service connections of the petitioner.

i) In ***Shikha Properties Pvt. Ltd., v. New Delhi Municipal Committee***^[1] when the electricity connections said to be in the name of the tenants and when the consumption bills were not paid by the tenants, the Delhi High Court held that it is not open for the respondents to fasten the liability of arrears on the petitioner, which was neither the registered consumer nor the actual user of electricity.

ii) In ***Fatechand Murlidhar v. Maharashtra State Electricity Board***^[2] wherein the Bombay High Court held as follows:

“merely because a person is the owner of a building, there is no nexus between the owner of the building and the premises. The owner of the building is, therefore, not included in the definition of the word ‘consumer’ in Section 2 (c) of Electricity Act 9 of 1910 where the premises are in the occupation of his tenant.

Where on the application of the tenant, service connection for business lighting was given to the tenant in occupation of his premises, then for the electrical energy supplied to the tenants and consumed by the tenants the owner of the building cannot be made liable as consumer, there being no privity of contract between the owner of the building and the Electricity Board.”

5) By relying on the above judgments, the learned counsel for the petitioner submitted that the owner cannot be made liable for

payment of the electricity charges payable by the third respondent.

6) The learned counsel for the first respondent also conceded that there is no express provision either in the Electricity Act or the Rules framed thereunder making the owner liable to pay the arrears of electricity charges if the tenant fails to pay the same when the service connection was issued in the name of the tenant.

7) In the light of the above circumstances, I concur with the views expressed by the other High Courts and I am of the view that whenever a service connection is taken in the names of the tenant, the owner cannot be made liable to pay the arrears of electricity charges despite the fact that he gave no objection for installation of the service connection in the name of the tenant.

8) Accordingly, the writ petition is allowed declaring that the action of the respondent in insisting the petitioner for clearing the arrears of the third respondent is illegal and arbitrary and the first respondent is not entitled to disconnect the existing service connections and refusing to grant new connections if the conditions required to be fulfilled are fulfilled. No order as to costs.

Dr.G. YETHIRAJULU, J

Date: 17-12-2007

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[\[1\]](#) AIR 2001 DELHI 247

[\[2\]](#) AIR 1985 BOMBAY 71